

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AMY S. CONN, <i>Administratrix</i>	:	CIVIL NO. 1:05-CV-1002
<i>of the Estate of Tony L.</i>	:	
Armentrout, Jr.,	:	(Judge Conner)
AMY S. CONN, <i>in her own right,</i>	:	
and STEVEN MAYO,	:	(Magistrate Judge Smyser)
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
MILLIE M. BULL,	:	
ANNIE S. GLADFELTER,	:	
TERI HOLLOWAY,	:	
JAMES REBERT,	:	
YORK COUNTY CHILDREN AND	:	
YOUTH SERVICES, and	:	
COUNTY OF YORK,	:	
	:	
Defendants	:	

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AMY S. CONN, <i>Administratrix</i>	:	CIVIL NO. 1:06-CV-1356
<i>of the Estate of Tony L.</i>	:	
Armentrout, Jr., AMY S. CONN,	:	(Judge Conner)
<i>in her own right, and</i>	:	
STEVEN MAYO,	:	(Magistrate Judge Smyser)
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
CLARA ROBINSON and JAN ALFORD,	:	
	:	
Defendants	:	

REPORT AND RECOMMENDATION

The parties in these two cases have file motions in both cases to consolidate the cases pursuant to Fed. R. Civ. P. 42 (a) .

Rule 42(a) provides:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

Each of the two civil actions arises from the death of Tony L. Armentrout, Jr., who died on July 14, 2004. The complaint in 1:05-CV-1002 alleges that the decedent died while in the legal and physical custody of Millie M. Bull, a foster parent, York County Children and Youth Services and York County.¹ Defendants Gladfelter, Holloway and Rebert are York County Children and Youth Services employees. The complaint in 1:06-CV-1356 is brought against defendants Clara Robinson and Jan Alford, York County Children and Youth Services employees with foster home inspection and monitoring responsibilities.

¹ By Order of January 13, 2006 (Doc. 23) the complaint in 1:05-CV-1002 was dismissed as to defendants York County, York County Children and Youth Services and Millie M. Bull.

The decedent, a two year old boy in the foster care of Millie M. Bull, drowned in a swimming pool. Each of the two complaints contains survival action counts and wrongful death counts.

The trials of these two actions will involve common questions of law and of fact. No factors warranting a refusal to consolidate are apparent. Therefore, consolidation will be recommended.

Consolidation will necessitate a single case management order in place of two different existing case management orders and may necessitate a continuance of the pretrial conference and trial and related deadlines stated in the Order of May 4, 2006 in 1:05-CV-1002.

A case management conference will be held on September 15, 2006 at 11:00 a.m., in 1:06-CV-1356. A case management order will be issued at that time, including a pretrial conference date and a trial date based upon the joint case management plan in that case. In the event that the court adopts this recommendation and consolidates the cases, the case management dates and deadlines in the order in 1:06-CV-1356 may

be made applicable in the consolidated cases and will become applicable as a matter of course unless the court specifies other dates or decides against consolidation.

It is recommended that the motions to consolidate the cases be granted and that the court vacate the Order of May 4, 2006 in 1:05-CV-1002 and direct the Clerk to close the file in that case.

/s/ J. Andrew Smyser

J. Andrew Smyser
Magistrate Judge

Dated: September 6, 2006.